

**THE YORK GROUP, INC., MILSO
INDUSTRIES CORPORATION, and
MATTHEWS INTERNATIONAL
CORPORATION,**

Plaintiffs,

V.

Civil Action No. 10-1078

**SCOTT PONTONE, HARRY
PONTONE, BATESVILLE CASKET
COMPANY, INC., and PONTONE
CASKET COMPANY, LLC,**

Defendants.

ORDER

AND NOW, this 6th day of March, 2014, IT IS HEREBY ORDERED that the motion for partial summary judgment filed by Defendants Scott and Harry Pontone (*ECF No. 473*) and the motion for summary judgment filed by Defendant Batesville Casket Company, Inc. (*ECF No. 462*) are **DENIED**, and that the remaining three motions for summary judgment (*ECF Nos. 463, 467 & 472*) are **GRANTED IN PART AND DENIED IN PART**.

Among the claims asserted in the amended complaint (*ECF No. 70*), the breach of fiduciary duty claim against Harry Pontone (§§ 151-57), the unfair competition claims against Scott Pontone, Harry Pontone and the Pontone Casket Company, LLC (§§ 185-90), and the unjust enrichment claims against Scott Pontone and the Pontone Casket Company, LLC (§§ 191-96) are **DISMISSED**.¹ Batesville Casket Company, Inc.'s counterclaims for unjust enrichment (*ECF No. 236* §§ 92-96) are **DISMISSED**. Among the counterclaims asserted by Scott Pontone,

¹ The unfair competition and unjust enrichment claims remain viable with respect to Batesville Casket Company, Inc.

Harry Pontone and the Pontone Casket Company, LLC (*ECF No. 333*), Harry Pontone’s breach-of-contract claim (§§ 175-85), the claims premised on alleged breaches of the implied covenant of good faith and fair dealing (§§ 186-202), the unjust enrichment claims (§§ 219-32), the unfair competition claims (§§ 233-43), the defamation claims (§§ 258-66), the claims based on a theory of “intrusion on seclusion” (§§ 279-92), and the false advertising claims (§§ 293-99) are **DISMISSED**. The pending motions for summary judgment are **DENIED** with respect to all other claims remaining in the case.

The motion for leave to file amended counterclaims for abuse of process filed by Scott Pontone, Harry Pontone and the Pontone Casket Company, LLC (*ECF No. 589*) is **DENIED** with respect to counterclaims based on the “initiation and continuation” of this action and **GRANTED** in other respects. Any abuse of process counterclaims must contain factual allegations linked specifically to an identified process asserted to have been abused and must be filed as a separate and supplemental pleading.

The parties’ motions to strike (*ECF Nos. 582, 588 & 599*) are **DENIED**. Batesville Casket Company, Inc.’s motions for oral argument (*ECF Nos. 568 & 632*) are **DENIED**.

By the court:

/s/ JOY FLOWERS CONTI
Joy Flowers Conti
Chief United States District Judge